

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

**Consolidated Communications d/b/a
 Illinois Consolidated Telephone
 Company,**

**Petitioner/Cross-
 Respondent,**

vs.

**NATIONAL LABOR RELATIONS
 BOARD,**

**Respondent/Cross-
 Petitioner.**

**International Brotherhood of
 Electrical Workers, AFL-CIO,
 Local 702,**
Intervenor.

**Case Nos. 14-1135
 14-1140**

**PETITIONER/CROSS-RESPONDENT CONSOLIDATED
 COMMUNICATIONS D/B/A ILLINOIS CONSOLIDATED TELEPHONE
 COMPANY’S MOTION TO EXCEED WORD LIMIT**

Pursuant to Rules 27 and 28 of the Federal Rules of Appellate Procedure and Circuit Rule 27(h), Petitioner/Cross-Respondent Consolidated Communications d/b/a Illinois Consolidated Telephone Company (“Petitioner”) respectfully moves

the Court for an order permitting it to exceed the 14,000-word limitation for its primary brief. Petitioner has conferred with Respondent/Cross-Petitioner National Labor Relations Board (“Respondent” or the “Board”), and Respondent has represented it will oppose the motion. In support of this motion, Petitioner shows the Court as follows:

1. On July 14, 2014, in the above-captioned case, Petitioner filed its Petition for Review of a Decision and Order of the National Labor Relations Board. [Doc. 1503139.]

2. Petitioner’s principal brief is due on December 12, 2014. [Doc. 1519487.]

3. Per Rule 32(a)(7)(B) of the Federal Rules of Appellate Procedure, Petitioner’s principal brief may not exceed 14,000 words. However, as described in further detail below, due to the voluminous record and numerous exceptions and legal arguments at issue, Petitioner seeks leave to exceed the word limit.

4. In the proceedings below, a hearing was conducted before the Administrative Law Judge (“ALJ”) in which the testimony of 20 witnesses was taken and over 1,350 pages of transcript were generated. (Declaration of Robert T. Dumbacher (“Dumbacher Dec.”), attached hereto as Exhibit 1, ¶ 3.)

5. Following the hearing and briefing from the parties, the ALJ rendered a decision concluding that Petitioner violated Section 8(a)(3)(1) of the National

Labor Relations Act through the discipline and/or termination of four employees in the context of a strike. (Dumbacher Dec., ¶ 4 and Ex. A thereto.) Petitioner filed 176 exceptions to the ALJ's decision with the Board. (Dumbacher Dec., ¶ 5 and Ex. B thereto.) Petitioner moved the Board for permission to exceed the page limitation for its brief in support of its exceptions, and the Board granted Petitioner permission to file a brief 75 pages in length. (Dumbacher Dec., ¶ 6 and Ex. C thereto.) Likewise, the Intervenor also requested and received permission to file an Answering Brief up to 75 pages in length. (Dumbacher Dec., ¶ 7 and Ex. D thereto.)

6. The Board subsequently issued an order and decision adopting the order of the ALJ and amending it to include an additional finding that Petitioner also violated Section 8(a)(5) and (1) by purportedly unlawfully refusing to bargain collectively. [Doc. 1507166.]

7. Petitioner commenced the instant proceedings before this Court seeking a review of the Board's decision. Petitioner respectfully takes issue with many of the Board's factual findings and legal conclusions and anticipates needing to file a detailed brief with this Court in support of its Petition of similar length and content as was needed in its Brief in Support of its Exceptions to the Decision of the ALJ. (Dumbacher Dec., ¶ 10.) Petitioner's Brief in Support of its Exceptions

consisted of 26,454 words spanning 75 pages. (Dumbacher Dec., ¶ 8 and Ex. E thereto.)

8. The Petition concerns the discipline and/or termination of three employees as well as the Board's new finding that Petitioner violated Section 8(a)(5), and involves the testimony of 20 witnesses and 1,350 pages of transcript. While Petitioner intends to present the relevant facts, issues, and legal arguments raised in its Petition as succinctly as possible, it will not be able to summarize the evidence and advance all of its arguments effectively within 30 pages or 14,000 words. (Dumbacher Dec., ¶ 11.)

9. The Board has represented that it will oppose Petitioner's Motion to Exceed the Word Limit. However, there will be no prejudice to the Board if the Motion is granted. The Board did not oppose Petitioner's request to exceed the page limitations when this case was pending before the Board, and it offers no justification for its decision to oppose the request at this time. Rather, the Board's opposition demonstrates its desire to deny Petitioner the ability to address the many deficiencies in the Board's decision and deny Petitioner its due process right to defend itself. Petitioner must be permitted to fully and fairly support its Petition and present its defenses. *See Lindsey v. Normet*, 405 U.S. 56, 66 (1972) ("Due process requires that there be an opportunity to present every available defense.").

10. Extraordinary compelling reasons exist to warrant the extension of the word limitation in this case given the length and complexity of the record, the numerous exceptions to the ALJ's decision and, hence, the Board's decision, and the corresponding needed briefing.

11. In accordance with the foregoing, Petitioner respectfully requests permission to file a principal brief up to 26,500 words in length.

12. Petitioner likewise would consent to the same extension of the word limitation for the Board's and Intervenor's principal briefs.

Dated: November 17, 2014

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of November, 2014, I caused the foregoing document to be filed with the Clerk of the United States Court of Appeals for the District of Columbia using the CM/ECF system which will send notification of such filing to the following:

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